



AF
2/2/06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of

JEROME L. ELKIND

Serial No. 09/965,140 (TI-33085)

Filed September 26, 2001

For: POCKET ANALYSER

Art Unit 1743

Examiner Samuel P. Siefke

Customer No. 23494

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

CERTIFICATE OF MAILING OR TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached document is being deposited with the United States Postal Service with sufficient postage for First Class Mail in an envelope addressed to Director of the United States Patent and Trademark Office, P.O. Box 1450,, Alexandria, VA 22313-1450 or is being facsimile transmitted on the date indicated below:

2-21-06

Jav M. Cantor, Reg. No. 19,906

REPLY BRIEF

In reply to the Examiner's Answer, it is respectfully submitted that the principal purpose of the subject invention is to provide a portable analyzer. This is evident not only from the title, "Pocket Analyser", but also from the specification. Note, for example, page 1 lines 14ff, page 4, lines 16 to 22 and page 10, last paragraph. The pocket analyzer as claimed fulfills exactly that purpose.

The Examiner's Answer states in response to the argument of portability that "[i]t is inherent that without the bolts that are used to affix the sensor to the wall of the reactor the sensor is in a free state and would be portable". Clearly, there is no basis in Yalvac

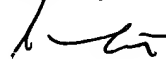
for such a conclusion. Nothing in Yalvac even hints at portability. The conclusion therefore must be drawn that nobody would consider Yalvac to be portable without a first reading of the subject disclosure.

The Examiner's Answer further attempts to play games with the term "portable", stating that "if the sensor is big it might need to be loaded by a truck, but it is still portable because it can be moved". The Twin Towers were moved, yet it would be ridiculous to state that they were portable. Portability in the context of the present invention means that it can be carried on the person. Note the title of the invention is Pocket Analyzer" and, as noted above, the specification clearly requires portability.

A further difference over Yalvac is that Yalvac relates to chemical sensing of the type which takes place in a chemical plant whereas the present invention relates to a biosensor which relates to biological science. It follows that the fields of endeavor are entirely different. For this additional reason, Yalvac fails as an anticipation of the invention as claimed herein.

For the reasons stated above, reversal of the final rejection and allowance of the claims on appeal is requested that justice be done in the premises.

Respectfully submitted,



Jay M. Cantor
Reg. No. 19906
(301) 424-0355
(972) 917-5293